

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL ESSER,
Plaintiff,
v.

DON MCINTYRE, M.D., et al.,
Defendants.

Case No. 21-cv-03440-JST

**ORDER TO SHOW CAUSE RE
DISMISSAL**

The parties were to submit updated case management statements by July 5, 2023 and to appear at a case management conference on July 11, 2023. ECF No. 62. Plaintiff Daniel Esser did not submit a case management conference statement and did not appear as ordered on July 11, 2023. *See* ECF No. 63.

It appears to the Court that Plaintiff no longer wishes to prosecute this case. Plaintiff is therefore ordered to show cause why the Court should not dismiss the case pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, which provides:

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule—except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19—operates as an adjudication on the merits.


Fed. R. Civ. P. 41(b). Although not stated explicitly in the text of the rule, Rule 41(b) permits the Court to dismiss a case on its own motion. *Link v. Wabash R. Co.*, 370 U.S. 626, 630 (1962).

The Court will conduct an order to show cause hearing on September 26, 2023 at 2:00 p.m. At that time, Plaintiff must inform the Court whether he wishes to continue to prosecute this case

and explain why he did not appear at the July 11, 2023 case management conference and did not file a case management statement. If Plaintiff fails to appear, the Court will dismiss the case with prejudice.

IT IS SO ORDERED.

Dated: August 29, 2023



JON S. TIGAI
United States District Judge